

OPEN RECORDS

- Under North Dakota's Open Records laws, ALL records of a public entity are open unless a specific statute makes a record or part of a record confidential or exempt. "Public entities" include state agencies; political subdivisions; private businesses or non-profit organizations that are supported by or expending public funds; and contractors, if the contractor is providing services in place of a public entity. The courts are not subject to the open records laws.
- Everyone has the right to access and obtain copies of public records. A public entity cannot ask the identity of the requestor, the reason for requesting the document, or require a request be made in writing.
- Confidential records **must not** be released. Exempt records may be released but it does not violate the law if an entity refuses to provide these records. A public entity cannot refuse to provide a copy of an otherwise open record simply because it contains some confidential information. The confidential information must be redacted and the record provided to the requester. Records must be provided within a reasonable time - hours or a few days. If requested, the public entity must provide the statutory reason for denying a record.

EXAMPLES OF OPEN, CONFIDENTIAL, AND EXEMPT RECORDS

Open Records and Information: (MUST be released)

- Any correspondence with a public entity or official relating to public business - such as minutes, memos, reports, outlines, notes, and other information kept for or relating to official business or public funds, regardless of format - this includes videotape, audio tape, computer data, e-mails, and photographs;
- Personnel records relating to salary and job performance;
- Financial records, telephone records, and travel vouchers of the public entity.

Confidential Records and Information: (can NOT be released)

- Social Security numbers;
- Law enforcement personal information (name, address, home phone number, photograph);
- Public employee medical treatment records;
- Employee Assistance program records;
- Personal financial information of public employees (used for payroll purposes);
- Medical records of university medical center or public health authority*;
- Criminal history records; **
- Identifying information of a living child victim or witness of a crime (except in the case of traffic accident or victim of fire);
- Names of persons injured or deceased (but only until law enforcement has notified the next of kin or for 24 hours, whichever occurs first - after that, the information is open);
- Autopsy photographs and autopsy reports;
- Electronic (computer or telecommunication) security codes and/or passwords;
- Fire department or rural fire protection district standard operating procedures; fire investigations (until the investigation is completed).

* federal law (HIPPA) may prohibit release of medical information from other sources.

** criminal history records may be obtained only from the BCI. There is a statutory fee for this information.

Exempt Records and Information: (MAY be released at discretion of public entity)

- Personal employee information (name, address, phone number, dependents);
- Active criminal intelligence information (including active law enforcement investigations);
- Attorney work product;
- Financial account numbers;
- Security system plans;
- Information regarding critical infrastructure vital to maintaining public safety, security, or health;
- Public health or security plans.

This is a general overview of the state's open records laws. There are additional provisions within state law, applicable to different public entities, which may affect the records of a specific agency or public entity. For more detailed information, see: <http://www.ag.nd.gov/OpenRecords/ORM.htm>.